

**Town of Groton**

**Zoning Board of Appeals**

173 Main Street

Groton, Massachusetts 01450

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January 3, 2024 - 6:30 PM - Second Floor Meeting Room

**Members Present and Voting for Public Hearing**

Bruce Easom, Chairman

Dan McLaughlin, Clerk, Full Member

Thomas Peisel, Full Member

Jack Petropoulos, Full Member

Jay Prager, Full Member

Veronica O’Donnell, Associate Member

**Other Members in Attendance**

Leonard Green, Associate Member

**Others Present**

Paul Alphen

Members of the public

**The meeting was called to order at 6:40 PM by Chairman Easom and stated that the meeting was being recorded for later broad cast. There will be video and audio for viewing.**

**Chairman Easom read aloud the agenda for this meeting.**

**Meeting Minutes**

**80 Forge Village, #8-23**

**Chairman Easom opened the public hearing. This is the first hearing in the process for this comprehensive permit.**

**Member McLaughlin read aloud the public notice into the record**.

The Zoning Board of Appeals will hold a public hearing on Wednesday, January 3, 2024 at 6:30 pm at the Groton Town Hall, second floor meeting room, to convene the hearing for the application of Claudemin P. DeSouza, 270 Lawrence St #20, Lowell, MA 01852, for a petition for a special permit to build a bump-out in the front entry on Lot 133-39, 80 Forge Village Rd, Groton, MA, 01450. Please refer to Section 218-5.7- E (1) and any other applicable section of the Groton Zoning By-Law.

Chairman Easom proposed that the voting members for this application would be Dan McLaughlin, Bruce Easom, Jay Prager, Jack Petropoulos, and Tom Peisel. Member Petropoulos deferred being a voting member to give the opportunity to the newer members to be able to participate. In result of this, Associate Member Leonard Green will be a voting member for this application.

No one representing the applicant was present for this application at this time in the meeting. Due to this, the meeting continued and this public hearing was kept open.

**Cow Pond Brook Road, Heritage Landing #3-23**

**Chairman Easom opened the public hearing. This is the ninth hearing in the process for this comprehensive permit.**

**Member McLaughlin read aloud the public notice into the record**.

Paul Alphen was in attendance to represent this 40B application. Chairman Easom mentioned that an email was sent in by the applicants stating that they would like to continue this meeting and Mr. Alphen verified this by explaining that they are still waiting on the traffic study. This report should be sent in a week and will be modified to represent the new plans of 28 units. Mr. Alphen also said that their engineers have been working with Natural Heritage on redefining where the restricted land will be and this plan should be ready around the same time as the traffic study, maybe a week or two later. Since the traffic study won’t be submitted for another week and that the peer reviewers still need to review it for their comments, a few weeks to extend to the next meeting might be necessary.

Chairman Easom mentioned that an opinion was sent in by Town Counsel regarding the scope of the authority of the Zoning Board of Appeals to deal with both lighting and other radio-frequency interference. Chairman Easom read Brian Falk’s email dated January 3, 2024 into the record. In sum, this email explains that the Zoning Board of Appeals has any scope of authority as any Town board or city board of survey, board of health, board of subdivision control appeals, planning board, building inspector or the office or board having supervision of the construction of buildings. In regards to RFI, Mr. Falk goes on to say that he believes that putting a condition regulating RFI would be outside of the Zoning Board of Appeals jurisdiction. As for exterior lighting, Mr. Falk explained that it was unclear in the provided information if dark sky compliant fixtures or other lighting restrictions requested by MIT would render this project uneconomic. However, what has been imposed by Town boards upon unsubsidized residential projects elsewhere in Groton would be the guideline for this project.

Member McLaughlin read Paul Alphen’s letter dated December 8, 2023 into the record. This letter responds to the MIT letter dated November 21, 2023. This letter explains some of the plans for the lighting of this project and how they intend to keep the project safe with the proposed lighting and how this project does not qualify as a multi-unit development since they are single-family homes. The letter also goes on to explain that it would be difficult to impose regulations regarding specifically used items in the home that would create radio frequency that would affect MIT’s research.

**Chairman Easom opened the floor to the Board:**

Associate Member O’Donnell asked if Mr. Alphen had any preliminary comments about Brian Falk’s email and Mr. Alphen responded by explaining that he does not see how this project would be considered a multi-family project because of the definition in the zoning bylaw, which explains that “multi-family” is a building that contains three or more units and does not include a lot that contains three or more units.

Member Petropoulos expressed his concern about the progress of this application.

Member McLaughlin asked, given if the Zoning Board of Appeals can determine a condition on dark sky lightening, how they would be able to incorporate this into each individual unit and if this was even possible.

Associate Member Green asked for clarification that the Mr. Alphen thinks that a multi-family development includes only a building with three or more units physically attached and does not include separately attached units. Mr. Alphen answered this by explaining that wasn’t exactly what he was saying but that there are lighting standards for site plan projects that require site plan approval and the bylaw requires site plan approval when a site plan involves multi-family uses and the zoning bylaw defines multi-family as a building containing three or more units and the buildings for this proposed project does not contain three or more units in one building. This is a project containing three or more units, but it is not a building containing three or more units.

**Chairman Easom opened the floor to the public:**

Town Planner, Takashi Tada, addressed Member McLaughlin’s question about incorporating a condition into each unit and explained that when the Planning Board reviews lighting, they generally look at the site lighting in the case of a residential development in regards to street lighting and that they aren’t necessarily looking at the lighting of individual housing or backyards. However, the Planning Board in general discourages lighting of any kind, unless there are safety concerns. Mr. Tada mentioned that a similar project to relate this to would be Village at Shepley Hill and this development has about three lights, one at the entrance of Longley Road, the entrance at Sand Hill Road and one in the road at the intersection of the interior roadways. Mr. Tada also mentioned that he believes these lights had conditions that included compliance with dark sky standards. Mr. Tada said that it may be in the Zoning Board of Appeals jurisdiction to impose reasonable conditions on the site lighting but likely not to impose any on individual units.

MIT representative Annalisa Bhatia was present at this meeting and introduced her colleague Tim Brothers, who was there to explain dark sky requirements in greater detail. Mr. Brothers explained that the Town of Groton voted on a set of bylaws that state that dark sky lighting is important and helps the environmental and human health impact, road-way visibility and the safety of the people living in these future houses. He went into detail about light pollution and how this is the excessive or inappropriate use of artificial lighting at night and this sums up to energy waste and that this is something that should be avoided. Mr. Brothers explained that dark sky lighting doesn’t require excessively priced lighting and that the lighting could actually be less expensive because it is minimizing energy waste. Mr. Brothers also said that dark sky regulations are used throughout surrounding towns. Mr. Brothers wanted to clarify that MIT is not asking for this project to be without light, they are just asking to have a reasonable amount of light that would collaborate with dark sky requirements. Mr. Brothers said that he is willing to work with the applicants to make this possible.

A Groton resident and abutter of this project asked about the status of the water line. Mr. Alphen said that they are waiting for the next grant cycle, which is in the Spring (2024). However, the applicants have said that they would build the water line extension out of their own funding if they are not granted the money, so the grant is no longer a requirement. Following up on this question, the Groton resident asked if it would be a requirement for the current residents that would be included on this line, if they would need to connect to the water line, and if they are, at whose expense would this be at. Chairman Easom reiterated his conversation that he had with Tom Orcutt, who indicated that when the water line gets installed, they will put an T at every house, but they will not be required to hook up to this unless they have a failed septic system or well. This Groton resident also asked about the nitrogen loading concern from previous meetings and it was clarified that this is also no longer an outstanding item since the numbers of units have been reduced. He also asked if there were enforcement mechanisms, assuming approval of this application, that are in place if the conditions are not followed by the builders. Chairman Easom said that this would fall under the purview of the Building Commissioner, who is also the Zoning Enforcement Officer. This resident also asked if there was any due-diligence being done as apart of the town on the developer. It was answered that this is not under the purview of the board to do this, and that if the applicants get approved for this permit, they could come back and sell to any other developer, in which case the town wouldn’t have any control over at that point. Continuing, he asked if any new plans have been submitted, such as the stormwater plans, and it was answered that no further plans have been received and there is no update as to when they will be submitted. He asked if this would affect a decision to be made on time and if this project could be denied because of failure to produce these plans and Chairman Easom said that this could be a reason for a denial of this comprehensive permit. However, it could be in the interest of both the Board and the applicant for an extension if one is needed. This Groton resident also asked if the consultant for this project would be in attendance, and it was answered that they are available to review anything that comes in and plans are still to be submitted, therefore they haven’t been needed to review anything yet. This resident clarified that he meant the consultant that the Town had funding for to consult on this case, Judi Barrett, and it was explained that she has been attending via Zoom but hasn’t been able to attend them all. However, she should be able to review any meeting she hasn’t been able to attend. This Groton resident also asked about the road conditions of this road and it was clarified that this was more of a DPW concern and not a concern for this project and that the Zoning Board of Appeals likely does not have jurisdiction to make a condition regarding upgrades to the road. The Town does have a list of roads that are recommended to be updated and whether this road is on that list or not is unknown. He also asked what the requirement of votes for the decision was for this application and while it was not clear how many exactly had to vote approve or deny for it to pass, it was clear that the decision was not unanimous and that it was majority. This will be researched further and answered in more depth at a further meeting.

Following up on a question that the previous resident asked about the water line, Nancy Sarlan asked if current residents who had a well, if they would be required to get their well and septic tested and at whose expense would this be at. There was no definite answer on this and will be something to be researched further. She also asked which department should be contacted to ask for Cow Pond Brook Road to be considered for a sidewalk. In response to the sidewalk question, it was suggested that they should contact the Select Board. Peter Cunningham mentioned that the sidewalk list previously discussed was with the Complete Streets Committee and if they wished to submit a request, this would be something that they would be willing to entertain. Ms. Sarlan asked if there were certain criteria for sidewalks that they look at to determine viability to install sidewalks and Mr. Cunningham said that in the past they have looked at public and safety issues and pedestrian traffic in specific areas and if residents think that this is a hazardous area. Ms. Sarlan a sked if the traffic study could be shared with these committees and it was answered that they are and that they are also posted on the Zoning Board of Appeals webpage when they are received. It was noted that comments from the peer reviewers will be located here as well.

A Groton resident, who has previously expressed her concerns about the progress of this application, came before the board and continued to express her concerns and asked if the Board had any authority to give deadlines to turn plans in. It was mentioned that while there were concerns about the status of some of these plans, there seems to have been some progress, such as an updated plan that decreased the number of units. The applicant also does have a certain window of time to submit what is needed and if these are not submitted in a timely manner, it reflects on them and the results of the decision. The deadline of the public hearing is sometime in April, 2024. The Board has 40 days after the close of the public hearing to come to a decision. However, no additional information is able to be brought before the Board once these 40 days begin.

Nancy Sarlan asked if any of the public’s recommendations to the Board regarding the traffic study was taken into consideration or followed before the traffic study commenced. Chairman Easom said that it was and said that at the time it was imperative that the cables to count got down sooner rather than later because of the end of the sports season. Ms. Sarlan also said that the days these cables were down to count, the majority of the activity was completed and it was explained that the peer reviewer will review this traffic study once complete and once they give their input, more discussion will be made on whether or not more data should be collected.

When on their site walk, Member Peisel noticed all of the traffic on Cow Pond Brook Road. Mr. Peisel also remembered that Member McLaughlin noted how high the water table was. All of the members who attended this site walk agreed that it was a worthwhile site walk and gave them a better insight of the project. A strip of land on this project, that is between the right of way land and the applicants parcel, was brought up and Chairman Easom asked if anyone knew anything about this land and if it would affect the development of this project. Paul Alphen recalls such a strip of land but does not remember in its entirety, but doesn’t believe it should affect the project and creating a public way. There was brief discussion on this but there was no definitive answer on whether or not it would affect the project, so further research, to be completed by Paul Alphen, will be done to answer this.

Member Petropoulos asked if the applicant would be willing to work with MIT in regards to dark sky compliance and Mr. Alphen said that a new lighting plan will be submitted, which will become public record. When the project was first proposed, the applicants were willing to work in the beginning with MIT and while this was the case at that point, he will go back and verify with the applicants that they are still willing to. It was recommended that the applicants have direct contact with MIT and MIT mentioned that they were in agreement that they would be willing to work with the applicants directly.

Chairman Easom read Paul Alphen’s email dated January 2, 2024 into the record. This email is a request for an extension by the applicants to submit further plans and get peer reviewer comments.

There was brief discussion about the next meeting date and it was discussed that the next meeting to be held would be on January 24th, 2024.

***Member Prager made a motion to continue the public hearing of Heritage Landing to the 24th of January, 2024. Associate Member O’Donnell seconded this motion and it was carried unanimously.***

**80 Forge Village, #8-23**

Chairman Easom asked if anyone showed up for 80 Forge Village Road yet and no one had at this time. Due to this, the meeting was agreed to be continued until the next meeting date of January 24th, 2024.

***Associate Member Green made a motion to continue the public hearing of 80 Forge Village special permit application to the 24th of January, 2024. Member Prager seconded this motion and it was carried unanimously.***

**General Business**

**Approval of Groton Herald Invoice**

*The Chair will entertain a motion to approve the invoice from the Groton Herald of $75.00. Member Prager made a motion to approve the invoice of $75.00 from the Groton Herald. Member* *Petropoulos seconded this motion and it was carried unanimously.*

**Approval of Minutes from December 13th, 2023**

*The Chair will entertain a motion to approve the meeting minutes from December 13th, 2023 as drafted. Member McLaughlin made a motion to approve the meeting minutes from the 13th of December 2023. Member Petropoulos seconded this motion and it was carried unanimously.*

**Member Pragermade a motion to adjourn. Member Peisel seconded the motion and it was carried unanimously.**

A motion to adjourn at 8:02 PM